

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

REX CHAPPELL,

Plaintiff,

vs.

C/O DICKERSON,

Defendant.

1:96-cv-05576-AWI-DLB-P

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS** (Doc. 102)

**ORDER DENYING IN PART AND
GRANTING IN PART MOTION FOR
SUMMARY JUDGMENT** (Doc. 99)

Plaintiff, Rex Chappell ("plaintiff"), is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

On December 11, 2006, the Magistrate Judge filed Findings and Recommendations herein which were served on the parties and which contained notice to the parties that any objections to the Findings and Recommendations were to be filed within twenty (20) days. The Magistrate Judge granted the parties several extensions of time to file objections. To date, the parties have not filed objections to the Magistrate Judge's Findings and

1 Recommendations.

2 In accordance with the provisions of 28 U.S.C.
3 § 636(b)(1)(C) and Local Rule 73-305, this Court has conducted a
4 de novo review of this case. Having carefully reviewed the
5 entire file, the Court finds the Findings and Recommendations to
6 be supported by the record and by proper analysis.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The Findings and Recommendations, filed December 11,
9 2006, are ADOPTED IN FULL; and,

10 2. Plaintiff's motion for summary judgment, filed July 28,
11 2006, is DENIED IN PART and GRANTED IN PART as follows:

12 a. Defendant's motion for summary judgment on
13 plaintiff's Eighth Amendment Claim, is DENIED;

14 b. Defendant's motion for summary judgment on
15 plaintiff's retaliation claim is DENIED;

16 c. Defendant's motion for summary judgment on
17 plaintiff due process claim is GRANTED; and,

18 3. This action should proceed to trial on plaintiff's
19 Eighth Amendment and Retaliation claims.

20 4. This action is referred to the Magistrate Judge for
21 further proceedings.

22
23 IT IS SO ORDERED.

24 **Dated: March 13, 2007**
25 0m8i78

/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE